

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

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STEVEN HODGES, on behalf of himself and all others similarly situated,	:	Civil Action No. 13-3381 (SRC)
Plaintiff,	:	ORDER
v.	:	
VITAMIN SHOPPE, INC.,	:	
Defendant.	:	

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**CHESLER**, District Judge

This matter having come before the Court upon the motion filed by Defendant Vitamin Shoppe, Inc. (“Defendant”) to dismiss the Complaint pursuant to Federal Rule of Civil Procedure 12(b)(1), or alternatively pursuant to Federal Rule of Civil Procedure 12(b)(6) [docket entry 17]; and Plaintiff Steven Hodges (“Plaintiff”) having opposed the motion; and the Court having considered the papers filed by the parties; and the Court concluding that it may rule on the motion without oral argument, pursuant to Federal Rule of Civil Procedure 78; and for the reasons expressed in the Opinion filed herewith;

**IT IS** on this 15<sup>th</sup> day of January, 2014,

**ORDERED** that Defendant’s motion to dismiss the Complaint pursuant to Federal Rule of Civil Procedure 12(b)(1), or alternatively pursuant to Federal Rule of Civil Procedure 12(b)(6) [docket entry 17] be and hereby is **GRANTED IN PART AND DENIED IN PART**; and it is further

**ORDERED** that insofar as the motion seeks to dismiss the Complaint for lack of Article III standing, it is **DENIED**; and it is further

**ORDERED** all claims pled in the Complaint are **DISMISSED WITHOUT PREJUDICE** pursuant to Federal Rule of Civil Procedure 12(b)(6); and it is further

**ORDERED** that Plaintiff is granted leave to re-plead his claims to cure the deficiencies discussed in the Opinion filed herewith; and it is further

**ORDERED** that Plaintiff shall file an Amended Complaint within 30 days of the date of this Order.

s/Stanley R. Chesler  
STANLEY R. CHESLER  
United States District Judge